

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

**MICHAEL HACKLEY ARCHITECTS,
P.C. AND MICHAEL HACKLEY**

Plaintiffs

V.

**LVL X, INC., JOHN LEE, COMMERCIAL
FINISH GROUP, INC., JEFFREY WAY,
AND JOHN S. TROUTON**

Defendants.

CASE NO.: JFM 02 CV 3363

MOTION TO AMEND SCHEDULING ORDER

Plaintiffs, Michael Hackley Architects, P.C. and Michael Hackley request, pursuant to Federal Rule of Civil Procedure 16, that this Court amend the Scheduling Order a period of approximately sixty (60) days to allow the parties to complete discovery and state as follows:

1. Plaintiffs, Michael Hackley Architects, P.C. and Michael Hackley, filed their original Complaint on October 11, 2002, alleging copyright infringement and unfair competition action under Section 1143 of the Lanham Act.
2. This Court entered a Scheduling Order on December 13, 2003 that included a Discovery Deadline of April 28, 2003.

3. On December 26, 2003, the parties filed a Joint Scheduling Report requesting that the Court extend the dates in the Scheduling Order each by sixty days, therefore moving the Discovery Deadline to June 28, 2003.

4. On December 31, 2002, Judge J. Frederick Motz approved the proposed amendments to the dates set forth in the Scheduling Order.

5. On January 31, 2003, Plaintiffs served their First Set of Interrogatories and First Request for the Production of Documents and Things to Defendants LVL X, Inc., John Lee and Jeffrey Way (hereinafter referred to as "Defendants"). Defendants served their insufficient responses to Plaintiffs' Interrogatories and Production Requests on March 26, 2003 and produced documents on May 8, 2003. Plaintiffs have sent two subsequent letters requesting responses and responsive documents and Defendants LVL X, Inc., John Lee and Jeffrey Way have not provided definitive responses to these requests. Thus, Plaintiffs have served Defendants with a Motion to Compel on June 25, 2003.

6. Plaintiff Michael Hackley was deposed by Defendants on June 16, 2003 and June 17, 2003. Defendant John Lee was deposed by Plaintiffs on June 19, 2003. Personnel for Prince Georges County Department of Environmental Resources were deposed on June 24, 2003. After Plaintiffs' multiple requests (beginning on May 8, 2003) to counsel for Defendants for available dates for Defendant Jeffrey Way's deposition, Mr. Way is scheduled to be deposed today June 25, 2003.

7. Defendants' Rule 26(a)(2) Expert Disclosures was initially due on May 12, 2003. Defendants requested and were granted an Extension. Defendants filed their Rule 26(a)(2) Expert Disclosure on June 6, 2003. However, the disclosure was incomplete. Counsel for

Defendants handed the resume of Defendants' accountant expert on June 24, 2003 and advised that the summary would be available by Friday June 27, 2003.

8. Defendants requested a date for deposition of Plaintiffs' expert and Plaintiffs advised that the deposition dates would be scheduled upon receipt of Defendants Expert Disclosures.

9. On June 16, 2003, Plaintiffs noticed the deposition of Defendants' Architect expert for July 2, 2003 and advised counsel for Defendants that Plaintiffs' expert would be available for deposition on July 1, 2003.

10. Plaintiffs and Defendant John Trouton have negotiated settlement and will likely be filing a Motion to Dismiss Defendant John Trouton within the next ten days. Mr. Trouton's deposition was not scheduled pending such settlement. Mr. Trouton will be deposed as a witness and not a party and Mr. Trouton's deposition was noticed on June 18, 2003 for July 8, 2003. This date was provided by counsel for Mr. Trouton based on earlier scheduling conflicts.

11. Defendant Commercial Finish Group, Inc., and Plaintiffs reached a settlement agreement and Defendant was dismissed from this action on May 12, 2003. Plaintiffs had not intended to depose anyone from Commercial Finish Group, Inc. However, the deposition of John Lee on June 16, 2003 and June 17, 2003 provided information that has prompted Plaintiffs to wish to depose Ron Reese from Commercial Finish Group, Inc. as a witness. This deposition has not yet been scheduled.

12. Counsel for Plaintiffs and counsel for Defendants LVL X, Inc., John Lee, and Jeffrey Way have conferred and counsel for Defendants would not agree to request an Extension of the Discovery Deadline unless Plaintiff agreed to Request the Extension for Depositions only. As Defendants have not produced complete responsive documents, Plaintiff does not know at

this time whether there will be a need for additional discovery based on the documents to be produced.

13. Depositions of Expert Witnesses, John Trouton and Ron Reese have not been taken due to the reasons set forth above.

14. Therefore, Plaintiffs request that this Court amend the Scheduling Order as follows:

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|----|---------------------------------------|--------------------|
| a. | Discovery Deadline | August 28, 2003 |
| b. | Requests for Admission | September 5, 2003 |
| c. | Dispositive Pretrial Motions Deadline | September 27, 2003 |

WHEREFORE, Plaintiffs request that this Court amend the Scheduling Order as set forth above.

Respectfully submitted,

June 25, 2003

_____/s/_____
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that true and correct copy of the foregoing Motion to Amend Scheduling Order was furnished this 25th day of June, 2003, Via First Class Mail, postage prepaid, to the following addressees:

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